

BRIAN SANDOVAL
Governor

STATE OF NEVADA



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Director, B & I

ANDREW J. MACKAY
Chairman
MONICA B METZ
Commissioner
GEORGE ASSAD
Commissioner

DEPARTMENT OF BUSINESS AND INDUSTRY
NEVADA TRANSPORTATION AUTHORITY

MINUTES OF THE May 30, 2013 GENERAL MEETING

AGENDA

1. Call to Order

Chairman MacKay called the General Session to Order at approximately 9:35 a.m.

2. Roll Call

Present in Las Vegas: Commissioner George Assad, Administrative Attorney James Day, Applications Manager Liz Babcock, Financial Analyst Yvonne Shelton, Financial Analyst Lidia Aronova, Chief of Enforcement Michael Bradford, Senior Deputy Attorney General David Newton, Deputy Attorney General Christopher Eccles. Present in Reno: Chairman Andrew J. MacKay.

3. Pledge of Allegiance

Financial Analyst Yvonne Shelton led a recital of the pledge.

4. Public Comment:

Kimberly Maxson-Rushton, Esquire, on behalf of the Livery Operators Association, urges higher fines for .386 and .758 violations.

5. Approval of Agenda

Administrative Attorney James Day asked that Item 81 be pulled, that Items 62 and 67 be considered jointly, and that Items 79 and 80 be considered jointly. Commissioner Assad requested that Item 25 be considered separately based upon the Respondent's desire to provide additional information regarding the fine amounts. Chairman MacKay requested that Items 68 and 78 be considered jointly, and that Item 84 be removed from the Agenda at request of Emerald Bay Towing.

6. Approval of the Minutes of the April 25, 2013 Agenda Meeting

Approved 2-0

7. Briefings from the Commissioners

Chairman MacKay thanked Commissioner Assad for the work done while Chairman MacKay has been in legislature, and thanked Enforcement Staff and all staff in the field for the amount of work produced in the past month. Chairman MacKay also congratulated Neal Tomlinson on the birth of his daughter.

8. Briefing from the Deputy Commissioner

None.

9. Report of Legal Counsel

Senior Deputy Attorney General David Newton stated he recently filed the opposition to Custom Towing Petition for Judicial Review, the the opposition to the Rapid Tow Petition for Judicial Review will be filed within next two business days, and that the Status conference in Fairman case is tomorrow.

ADMINISTRATIVE CITATIONS AND IMPOUNDMENTS

Kimberly Maxson-Rushton offered public comment/general protest requesting increased fines for .386 and .758 violations and impounds. Commissioner Assad and Chairman MacKay described the case-by-case analysis and presented examples where fines at or near the statutory maximum have been imposed. Senior Deputy Attorney General Newton defended his rationale for seeking lower fine amounts in certain circumstances, and noted that over the past 2 or 3 years there have only been two repeat violators among the Respondent's who received low fine amounts for unlawful operation—proving that the fines provided remarkably effective deterrence.

Items 10-56, with the exception of Item 25, were considered collectively. Approved 2-0

10. Citation 14154 issued to Blake Price for a violation of NAC 706 as amended by LCB File No. R127-07(1). (AJM)

11. Citation 14155 issued to Patrick Bryant for a violation of NAC 706 as amended by LCB File No. R127-07(1). (AJM)

12. Citation 14156 issued to Istvan Keller for violation of NAC 706.376. (AJM)

13. Citation 14158 issued to William Strauss for a violation of NAC 706.376 and NAC 706.247/49CFR 391.41. (AJM)

14. Impound 1504. The impoundment pursuant to NRS 706.476 of a vehicle registered to U Haul. (AJM)

15. Impound 1515. The impoundment pursuant to NRS 706.476 of a vehicle registered to Penske Truck Leasing. (AJM)

16. Impound 2007 and Citation 15818. The impoundment pursuant to NRS 706.476 of a vehicle registered to and Citation 15818 issued to Julio Cesar Ramirez-Carmona for violations of NRS 706.386 and NRS 706.758. (MBM)

17. Impound 2050 and Citation 16108. The impoundment pursuant to NRS 706.476 of a vehicle registered to and Citation 16108 issued to Eric Innis/Exclusive Transportation for violations of NRS 706.386 and NRS 706.758. (MBM)

18. Citation 15575 issued to Ram Towing for a violation of NAC 706.191. (GA)

19. Citation 16066 issued to Kenneth Baldwin for a violation of NRS 706.329. (GA)

- 20. Citation 16069** issued to Million L. Mekonen for violation of NAC 706.228.
- 21. Citation 16072** issued to Lloyd Clarke for a violation of NAC 706.228. (GA)
- 22. Citation 16073** issued to Kenneth Baldwin for a violation of NAC 706.228. (GA)
- 23. Citation 16103** issued to Gregory Scott Brown for violations of NRS 706.386 and NRS 706.758. (GA)
- 24. Citation 16109** issued to Cesar Triana for violations of NRS 706.386 and NRS 706.758. (GA)
- 25. Citation 16209** issued to Terry Tyrone Smith for a violation of NAC 706.228(3). (GA)
Mr. Smith was present and requested a reduction of the fine amount, stating that he is facing economic hardship, that he lost his job as a result of the Citation, and that he remains unemployed. Commissioner Assad noted that this testimony is new evidence not offered at hearing. Commissioner Assad modified his recommendation to suspend \$50 of the \$100 fine amount. Approved 2-0 as modified
- 26. Citation 16213** issued to Samuel Ketsela for violations of NAC 706 as amended by LCB File No. R127-07(1). (GA)
- 27. Citation TA8-00024381** issued to Kim Quintara Rucker for a violation of NAC 706.329. (GA)
- 28. Impound 2026 and Citation 15823.** The impoundment pursuant to NRS 706.476 of a vehicle registered to and Citation 15823 issued to Victor B. Mann for violations of NRS 706.386 and NRS 706.758. (GA)
- 29. Impound 1975 and Impound 2056.** The impoundment pursuant to NRS 706.476 of vehicles registered to Constantino Garcia-Woodward. (GA)
- 30. Impound 2017.** The impoundment pursuant to NRS 706.476 of a vehicle registered to Home Depot. (GA)
- 31. Impound 2015 and Citation 16115.** The impoundment pursuant to NRS 706.476 of a vehicle registered to and Citation 16115 issued to Willian Iglesia-Ruiz for violations of NRS 706.386 and NRS 706.758. (GA)
- 32. Impound 2020 and 2021 and Citation 16116.** The impoundment pursuant to NRS 706.476 of two vehicles registered to and Citation 16116 issued to Rene Arana for violations of NRS 706.386 and NRS 706.758. (GA)
- 33. Impounds 2024 and 2025 and Citation 16265.** The impoundment pursuant to NRS 706.476 of two vehicles registered to and Citation 16265 issued to Alvin Heskett Jr. for violations of NRS 706.386 and NRS 706.758. (GA)
- 34. Impound 2057 and Citation 16263.** The impoundment pursuant to NRS 706.476 of the vehicle registered to and Citation 16263 issued to Michael Gibbons for violations of NRS 706.386 and NRS 706.758. (GA)

- 35. Impound 2058 and Citation 16113.** The impoundment pursuant to NRS 706.476 of a vehicle registered to and Citation 16113 issued to Martin King for violations of NRS 706.386 and NRS 706.758. (GA)
- 36. Citation 15569** issued to Las Vegas Limousines for violations of NAC 706.311 (11 counts).
- 37. Citation 15671** issued to Big Box Storage Nevada, Inc. for violation of NAC 706.247/49 CFR 391.51(7)(i).
- 38. Citation 15817** issued to Fast Towing for violations of NAC 706 as amended by LCB File No. R075-08(3) and NAC 706 as amended by LCB File No. R075-08(8).
- 39. Citation 15819** issued to Seifu Dassa for violations of NAC 706.228 and NAC 706 as amended by LCB File No. R127-07(1).
- 40. Citation 15820** issued to Dergou Fekadu for violations of NAC 706.228 and NAC 706 as amended by LCB File No. R127-07(1).
- 41. Citation 16078** issued to Kenneth R. Quayle for a violation of NAC 706.228.
- 42. Citation 16083** issued to Amanuel Sibhatu for a violation of NAC 706 as amended by LCB File No. R127-07(1).
- 43. Citation 16084** issued to Alejandro Questa for a violation of NAC 706.228.
- 44. Citation 16087** issued to Steve Philostin for violations of NAC 706.247/49CFR 391.41 and NAC 706.228.
- 45. Citation 16104** issued to Pablo Barroso for a violation of NAC 706 as amended by LCB File No. R127-07(1).
- 46. Citation 16111** issued to Brett Wachman for a violation of NAC 706 as amended by LCB File No. R127-07(1).
- 47. Citation 16114** issued to J. Michael Solyman for a violation of NAC 706.228.
- 48. Citation 16082** issued to Habtu Ademe for a violation of NAC 706 as amended by LCB File No. R127-07(1).
- 49. Citation 16185** issued to Custom Towing for a violations of NAC 706.420 and NAC 706.311.
- 50. Citation 16196** issued to Thomas Schemkes for a violation of NAC 706 as amended by LCB File No. R127-07(1).
- 51. Citation 16214** issued to Robert Addis for violations of NAC 706.228 (2 counts) and NAC 706.247/49CFR 391.41.
- 52. Citation 16220** issued to Rahel Demissie for a violation of NAC 706.228(3).

- 53. Citation 16194** issued to Steve Heckman for a violation of NAC 706.228.
- 54. Citation 16276** issued to Paul Nyaruba for a violation of NAC 706 as amended by LCB File No. R127-07(1).
- 55. Citation 16277** issued to Awel Hagoss for a violation of NAC 706 as amended by LCB File No. R127-07(1).
- 56. Citation TA-8-00024379** issued to Brandon Schaffner for violations of NAC 706.228 and NAC 706.329.

**APPLICATIONS FOR CERTIFICATES OF PUBLIC CONVENIENCE AND
NECESSITY TO PROVIDE TOW CAR SERVICE**

- 57. Docket No. 13-02010** The Application of Camila's Towing, LLC d/b/a Camila's Towing for a certificate of public convenience and necessity to provide tow car service by tow car vehicle within the State of Nevada. Staff investigation concluded. (GA)
Applications Manager Liz Babcock summarized the application and indicated staff support. Approved 2-0
- 58. Docket No. 13-02018** The temporary discontinuance from May 15, 2013 through August 15, 2013 of services provided by Rapid Tow, LLC d/b/a Rapid Tow under CPCN 7224, Sub 2. Staff investigation concluded.
Chairman MacKay summarized the request. Approved 2-0
- 59. Docket No. 13-02020** The Application of Stephen B. Perry d/b/a Salt Flats Towing for a certificate of public convenience and necessity to provide tow car service by tow car vehicle within the State of Nevada. Staff investigation concluded. (AJM)
Chairman MacKay summarized the request. In response to a question from Chairman MacKay, Compliance Audit Investigator Gina Reynolds clarified the Applicant's status with federal regulatory authorities. Approved 2-0
- 60. Docket No. 13-02024** The Application of Shannon Ryle d/b/a Cash Welding Service & Towing for a certificate of public convenience and necessity to provide tow car service by tow car vehicle within the State of Nevada. Staff investigation concluded. (AJM)
Chairman MacKay summarized the request. Approved 2-0
- 61. Docket No. 13-03014** The Application of Marin Bochis d/b/a Northshore Towing for a certificate of public convenience and necessity to provide tow car service by tow car vehicle within the State of Nevada. Staff investigation concluded. (AJM)
Chairman MacKay summarized the request. Approved 2-0
- 62. Docket No. 13-04020** The temporary discontinuance from April 28, 2013 through May 28, 2013 of services provided by Lifting Towing, LLC d/b/a Lifting Towing under CPCN 7268. Staff investigation concluded.
Considered collectively with Item 67. Chairman MacKay summarized the request for Items 62 and 67. Applications Manager Liz Babcock clarified the Temporary Discontinuance was an extension of a previous one. Approved 2-0

APPLICATIONS FOR CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY TO PROVIDE CHARTER BUS SERVICE

63. Docket No. 12-05021 The Application of Feth Investments, LLC d/b/a NTI Transportation for a certificate of public convenience and necessity to provide charter bus service within the State of Nevada. Staff investigation concluded. (AJM)

Brian Hardy, Esquire was present on behalf of the Applicant. Chairman MacKay summarized the procedural history and reasoning behind his findings and recommendation. Commissioner Assad stated his support for Chairman MacKay's recommendations, and added that he also had safety-related concerns regarding the Applicant's proposed operation. The Chairman's draft Order was Approved 2-0.

64. Docket No. 13-02005 The Application of Event Transportation, LLC d/b/a Event Transportation for a certificate of public convenience and necessity to provide charter bus service within the State of Nevada. Staff investigation concluded. (MBM)

Kellie McKinley present on behalf of the Applicant. Chairman MacKay summarized the request and the procedural history. Applicant will be domiciled in Las Vegas and begin business with one 17 passenger vehicle. Approved 2-0

65. Docket No. 13-02006 The Application of Platinum LV Transportation, LLC d/b/a Platinum LV Transportation for a certificate of public convenience and necessity to provide charter bus service within the State of Nevada. Staff investigation concluded. (MBM)

Kellie McKinley present on behalf of the Applicant. Chairman MacKay summarized the request and the procedural history. Applicant will be domiciled in Las Vegas and begin business with two 29 passenger buses. Approved 2-0

VOLUNTARY CANCELLATIONS

66. Docket No. 13-04034 The voluntary cancellation of Bighorn Towing, Inc. of Certificate of Public Convenience and Necessity 7251. Staff investigation concluded.

Chairman MacKay summarized the request. Approved 2-0

67. Docket No. 13-05022 The voluntary cancellation of Lifting Towing, LLC of Certificate of Public Convenience and Necessity 7268. Staff investigation concluded.

See Item 62. Approved 2-0

APPLICATIONS FOR WAREHOUSE PERMITS

68. Docket No. 12-12012 The Application of Align Franchising, LLC d/b/a Silver Eagle Relocation. Staff investigation concluded.

Considered collectively with Item 78. Dan Cooper and Richard Wenschlag appeared on the behalf of the Applicant. Chairman MacKay summarized the application and procedural history indicating no hearing was necessary. Approved 2-0

PETITION TO DEVIATE FROM REGULATION

69. Docket 13-05021. Petitioner On Demand Services, Inc. d/b/a AAA ODS Limousine, ODS Limousine, ODS Chauffeured Transportation, and On Demand Sedan & Limousine seeks Authority approval to deviate from signage and 50-foot setback requirements at the Bellagio hotel/casino property. (AJM)

Rich Frakes was present on behalf of the Petitioner. Mr. Frakes summarized the request.

Administrative Attorney Day detailed the prior approval of a similar request at the property and noted that preparation of a comprehensive database of these exemptions is underway.

Approved 2-0

PETITIONS FOR RECONSIDERATION

70. Docket 13-04032. Liben Kumelcha Kumesa petitions for reconsideration of the Authority's March 21, 2013 final Order in the matter of Citation 16201. The Petitioner seeks to have his failure to appear set aside and a new hearing set. (MBM)

Mr. Kumesa was present. Chairman MacKay summarized the request and indicated his agreement to set aside. Approved 2-0, with matter rescheduled to June 19, 2013 with Respondent waiving further notice of the new hearing date

71. Docket 13-05013. Dawit Mosazgi petitions for reconsideration of the Authority's October 27, 2011 final Order in the matter of Citation 15488. The Petitioner seeks to have his failure to appear set aside and the matter resolved through stipulation or settlement agreement on the same terms (\$360.00 total fine).

Mr. Mosazgi was present. Chairman MacKay summarized the request and indicated support for the Reconsideration. Approved 2-0

FINANCIAL RATES AND TARIFFS

72. Docket No. 13-04010 The Application of Adventure Photo Tours, Inc. d/b/a Adventure Photo Tours for approval of a tariff rate modification for charter limousine service conducted under Certificate of Public Convenience and Necessity 1047, Sub 1. Staff investigation concluded.

Chairman MacKay summarized the request. Applications Manager Liz Babcock proposed a minor amendment to the draft Order and expressed Staff support. Approved 2-0 with the modification noted.

73. Docket No. 13-05003 The Application of Baumbach Enterprises, LLC d/b/a Milne Towing for approval of a tariff rate modification for tow car services conducted under Certificate of Public Convenience and Necessity 8003, Sub 5. Staff investigation concluded.

Tom Baumbach was present on behalf of the Applicant. Applications Manager Liz Babcock summarized the application and indicated Staff support. Approved 2-0

74. Docket No. 13-05006 The Application of Bentley Transportation Services, LLC d/b/a Executive Coach and Carriage for approval of a tariff rate modification for charter limousine services conducted under Certificate of Public Convenience and Necessity 1072, Sub 2. Staff investigation concluded.

James J. Jimmerson, Managing Member and legal counsel, was present on behalf of the Applicant. Applications Manager Liz Babcock summarized the application requests. Mr. Jimmerson provided an overview of the request and the justification therefore. Approved 2-0

75. Docket No. 13-05019 The Application of Airline Limousine Corporation d/b/a Airline Shuttle Corp for approval of a tariff rate modification for airport transfer and charter limousine services conducted under Certificate of Public Convenience and Necessity 2050, Sub 4. Staff investigation concluded.

Director of Operations, John Marushok and General Manager Terry Flink, were present on behalf of the Applicant. Applications Manager Liz Babcock summarized the application requests and indicated staff support. Approved 2-0

APPLICATIONS FOR FULLY REGULATED CARRIERS

76. Docket No. 10-06012 The Application of Las Vegas Wedding Services, LLC for a Certificate of Public Convenience and Necessity to provide charter limousine service in the State of Nevada. Staff investigation concluded.

Applications Manager Liz Babcock summarized the application and indicated staff wished to clarify the Authority is not a party to the agreement between the Applicant and Intervenor. Approved 2-0

77. Docket No. 11-08002 The Application of C. H. Destinations, Inc. for a certificate of public convenience and necessity to provide charter limousine service in the State of Nevada. Staff investigation concluded. (GA)

Commissioner Assad summarized the Application and indicated staff did not require a formal hearing. Mr. Barry Perea appeared on behalf of the Applicant. Mr. Louis Csoka was present on behalf of the Livery Operators Association. Approved 2-0

78. Docket No. 12-12013 The Application of Align Franchising Consultants, LLC d/b/a Silver Eagle Relocation for a certificate of public convenience and necessity to provide transportation of household goods within the State of Nevada. Staff investigation concluded (AJM)

Considered collectively with Item 68. Approved 2-0

79. Docket No. 13-02014 The request for approval of a Management Agreement by CLS Nevada, LLC d/b/a CLS Transportation Las Vegas authorized to conduct charter limousine service, airport transfer service, and charter bus service under Certificates of Public Convenience and Necessity 1011, Sub 4 and 2066, Sub 1. Staff investigation concluded.

Items 79 and 80 were considered jointly. Legal counsel Robert Winner and Brent Carson were present along with owner Charlie Horky and Jason Propp, the Applicant. Mr. Winner summarized the justification for the requests and noted that the standard for approval is the public interest. Commissioner Assad expressed concerns about transferring control of such a troubled company to persons unknown to the Authority prior to completion of the full background investigation and Staff research on the sale and transfer. Mr. Horky urged that approval would serve the public interest and summarized the qualifications of Leon Retzenstein and Jason Propp. A discussion ensued. By a vote of 2-0, the Item was tabled until next subsequent general session, with further consideration contingent upon the Applicants obtaining a letter from the lead prosecuting attorney in Mr. Horky's criminal matter indicating no objections to the proposed temporary transfer and management agreement.

80. Docket No. 13-04030 The Joint Application of CLS Nevada, LLC d/b/a CLS Transportation Las Vegas and Proper Transportation, LLC pursuant to NAC 706.359 requesting approval for the temporary transfer of Certificates of Public Convenience and Necessity 1011, Sub 4 and 2066, Sub 1, to Proper Transportation, LLC pending the application and approval of the final sale and transfer. Staff investigation concluded.

Considered with collectively with Item 79.

APPLICATIONS TO DISMISS

- 81. Docket No. 12-05019** The Application of Alltour of America, Inc. for a certificate of public convenience and necessity to operate as a common carrier of passengers to provide charter bus service within the State of Nevada. Deputy Commissioner's Motion to Dismiss Application. (MBM)

Removed from Agenda prior to consideration.

ORDERS TO SHOW CAUSE

- 82. Docket 11-12007.** The Order to Show Cause issued to Vegas Con Xpress and Wear, LLC as to why Certificate of Public Convenience and Necessity 2139 should not be revoked. (GA)

Administrative Attorney James Day summarized the historical procedure with regard to the CPCN abandonment and attempts to contact the carrier. CPCN Revoked 2-0

FORMAL WRITTEN COMPLAINT

- 83. Docket No. 12-11008** The formal written complaint of Michael Keller/AAA against City Auto Towing (CPCN 7117). Pursuant to NAC 706.3977, the Staff of the Authority could not resolve the formal written complaint and therefore transmitted the complaint to the Authority for review. At its December 2012 general session, the Authority found probable cause with respect to the limited issue of the charges for inside versus outside storage and set a public hearing on the complaint. Chairman Andrew J. MacKay, in his capacity as Presiding Officer, conducted the hearing on February 7, 2013. The Authority will consider the Presiding Officer's recommendations that the complaint be dismissed and that no further remedies are warranted. (AJM)

Chairman MacKay summarized historical procedures with regard to the complaint and findings that no violation occurred and recommended dismissal of complaint. Approved 2-0

REQUEST FOR AUTHORITY TO OPEN TARIFF INVESTIGATION

- 84. Docket Number 13-03026** Michael A. Keller of AAA Insurance requests that, pursuant to NRS 706.321(4), the Authority move to open an investigation regarding the tariff rates of Emerald Bay Towing (CPCN 7081).

Removed from agenda prior to consideration.

REQUEST FOR ADVISORY OPINION/PETITION

- 85. Docket 13-05004.** AWG Ambassador, LLC requests an advisory opinion on the following question regarding the application and interpretation of a regulation: "Does a vehicle owned by AWG Ambassador, LLC need to be identified by the fictitious name or does the identification of the vehicle as just an "AWG Ambassador" vehicle satisfy the requirements of NAC 706.170?" The request includes a Petition to Deviate from NAC 706.170, pursuant to NAC 706.1305, in the event the advisory opinion does not embrace the Petitioner's preferred practice.

Brent Carson, Esquire was present on behalf of the Petitioner and summarized the request for clarification. Enforcement Staff states if customer is dissatisfied with service, exits vehicle, it would be difficult for the traveling public to determine who to direct their complaint toward. A discussion ensued with regard to the need for identification and staff concerns in that arena re: vehicle markings.

*Motion that if carrier wishes to mark vehicles with legal name **or** dba, they may do so, however they cannot do both. Approved 2-0*

86. Public Comment

None

87. Adjournment

Meeting was adjourned at 2:00 p.m.